

Serial No.: 10/065,048
Confirmation No.: 2585
Applicant: STRÅÅT, Olle *et al.*
Atty. Ref.: 03485.0003.NPUS00

REMARKS:

REMARKS REGARDING CLAIMS AMENDMENTS:

Claims 1, 10, 14 and 16 have been amended. Claims 1 - 19 are pending.

REMARKS REGARDING THE ABSTRACT:

The abstract of the disclosure has been amended not to exceed 150 words.

IN RESPONSE TO THE OFFICE ACTION:

REJECTION UNDER 35 U.S.C. § 112:

Examiner has rejected claim 1-13 under 35 U.S.C. § 112 as allegedly being indefinite for failing to particularly point out the Applicant's invention. The Office Action alleges that claim 1 provides no structure for forming the staple (e.g. bending legs) as recited in the preamble of the claim. Furthermore, a "staple forming arrangement" does not structurally define a staple bending device and, therefore, the boundaries and the scope of the claim is unclear.

Claim 1 has been amended to clarify that the "staple forming arrangement" comprises a "main body portion including at least one leg bending portion" and a "staple crown-forming portion." This recitation provides a precise description of a structure that uses a leg bending, main body portion and a crown-forming portion to produce a staple.

Amendment to clarify Claim 1 overcomes rejection under 35 U.S.C. §112, second paragraph. It is respectfully requested that rejection of claims 1 - 13 be withdrawn.

Serial No.: 10/065,048
Confirmation No.: 2585
Applicant: STRÅÅT, Olle *et al.*
Atty. Ref.: 03485.0003.NPUS00

REJECTION UNDER 35 U.S.C. § 102:

Examiner has rejected claims 1-5 and 7-19 under 35 U.S.C. §102(b) as being anticipated by Hurkmans et al. (3,524,575). In response, Applicant requests that the Examiner reconsider and withdraw the rejection in view of the following.

Examiner's contention with regard to claims 1, 14 and 16 is as follows:

"With respect to claims 1, 14, and 16, Hurkmans et al. shows a staple forming device for a stapler of the type in which staples are driven by a driver blade into a workpiece comprising a main body portion 85, a first leg-bending portion 94 and a second leg-bending portion 95 with an intermediate crown-forming portion 96 having a stamping surface; a drive means for driving said stamping surface from a starting position of a staple-forming motion in which the staple forming device is brought against the bending die 118.

Hurkmans also shows the first and second leg-bending parts bending the staple blank into a staple shape over the bending die, and a drive means, a driver blade 97, and said crown-forming portion being displaceably interconnected by an elastic element or biasing means or take up device 86 (as in claims 1 and 16). Biasing means 86 applying outwardly directed forces between a staple crown forming portion and main body portion 85 (as in claim 14)."

Amendment to Claim 1 of the present invention provides that "a main body portion" includes "at least one leg bending portion." According to the Office Action, the reference of Hurkmans et al. teaches a main body portion identified by numeral 85. Column 6, lines 52 - 53, and either Figures 4 or Figure 5 of the reference showing that numeral 85 designates "a forwardly projecting portion" of a "main arm upper control member (25)" that corresponds to a "drive arm (12)" according to the present invention. The "forwardly projecting portion (85)" of Hurkmans et al. does not include a leg-bending portion and therefore cannot be construed to represent "a main body portion (22)" according to the present invention. Hurkmans et al., at column 6, lines 50 - 54, clearly teaches downward motion of a solenoid (120) "which will move former 90 downwardly. As former 90 moves downwardly, it forms a staple having crown and leg portions." It is the former (90) of the reference that bends leg portions of a staple. The main body

Serial No.: 10/065,048
Confirmation No.: 2585
Applicant: STRÅÅT, Olle *et al.*
Atty. Ref.: 03485.0003.NPUS00

portion (85) of Hurkmans et al. plays no part in staple formation. Further, the reference teaches, at column 5, lines 63 - 68 and Figures 6 - 10, that former (90) is a single plate that is neither described nor illustrated to comprise a "main body portion including at least one leg-bending portion and a staple crown-forming portion reciprocatingly interconnected" as required by Claim 1 of the present invention. Also, Hurkmans et al. fails to teach "an elastic element interconnected between said main body portion and said staple crown-forming portion," required by Claim 1 of the present invention, since the single plate of the former (90) has no need of such an element.

The reference fails to teach requirements of Claim 1 of the present invention including "a main body portion," "reciprocatingly interconnected" with a "crown forming portion" that is held away from the main body portion by "an elastic element" interconnected between the two.

Amendment of Claim 14 requires "a main body portion including at least one leg-bending portion." The main body portion according to the present invention is involved in staple formation, which is not taught for the main body portion (85) of the reference.

Amendment of Claim 16 requires "a main body portion including said first leg-bending portion and said second leg bending portion of the staple forming device." As explained before, the main body portion (85) of the reference does not participate in staple formation and the former (90) of Hurkmans et al. does not require reciprocation between a crown forming portion and a main body portion as recited in Claim 16 of the present invention.

For the reasons given previously, Hurkmans et al does not anticipate the present invention and reconsideration and withdrawal of rejection of claims 1, 14 and 16, as amended, is respectfully requested.

Claims 2 - 5 and 7 - 13 depend from Claim 1, claim 15 depends from Claim 14 and claims 17 - 19 depend from claim 16. As discussed previously, amendment of claims 1, 14 and 16 has overcome rejection of claims for anticipation over the reference of Hurkmans et al. Since it is believed that the amended claims are in condition for allowance, claims dependent therefrom should likewise be allowable.

In view of the above, Applicant requests the reconsideration and withdrawal of the rejection of claims 1-5 and 7-19 under 35 U.S.C. §102(b).

Serial No.: 10/065,048
Confirmation No.: 2585
Applicant: STRÅÅT, Olle *et al.*
Atty. Ref.: 03485.0003.NPUS00

REJECTION UNDER 35 U.S.C. § 103(a):

Claim 6 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Hurkmans et al. (3,524,575). Applicants request that the Examiner reconsider and withdraw the above rejection of the claims in view of the following:

Claim 6 depends from claim 1 of the present invention. For the reasons given previously, amended claim 1 is not anticipated by the reference of Hurkmans et al. Since the reference does not teach the structure of a staple forming arrangement or staple former (11) according to the present invention (see paragraphs 0016 to 0020 and e.g. Figures 3 - 5 of the present application), it fails to render obvious the invention of claim 6. Consequently claim 6 is patentable over the reference and rejection of this claim for obviousness should be withdrawn.

In view of the above, Applicant submits that the requirement and burden of presenting of a *prima facie* case of obviousness under 35 USC §103 has not been presented. Therefore Applicant requests the reconsideration and withdrawal of the rejection of claim 6 under 35 USC §103(a).

CONCLUSION

The Office Action included prior art made of record and not relied upon but considered pertinent to Applicant's disclosure. However, review of these references provides no basis for further comment.

Given the above, Applicant requests that the rejection of claims 1-19 be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

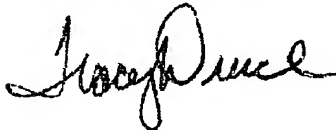
Serial No.: 10/065,048
Confirmation No.: 2585
Applicant: STRÅÅT, Olle *et al.*
Atty. Ref.: 03485.0003.NPUS00

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Order No. 03485.0003.NPUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,



Tracy W. Druce
Patent Attorney
Reg. No. 35,493
Tel. 202.383.7398